IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3586 OF 2004

IN

CRIMINAL APPEAL NO.1003 OF 2004

Kasam Abdul Rahiman Shaikh .. Applicant

versus

The State of Maharashtra .. Respondents

...

Mrs.Swati Sawant i/b Mr.Imtiyaz Patel for the applicant.

Mr.D.P. Adsule, APP for the State.

CORAM : V.M. KANADE, J

DATED : 8th October 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant is convicted u/s.376(2)(f) of

the IPC and is sentenced to suffer RI for two years. The prosecutrix was three years old. It is submitted that no injuries were found on her person and no blood stains or semen also was noticed in the Chemical Analyser's report. It was submitted that her hymen was also intact. It was further submitted that the conduct of the mother of the victim girl also indicates that she had not immediately taken her to a Doctor or reported the incident to her neighbour.

3. The fact remains that the accused was apprehended and was caught red-handed by the mother of the prosecutrix who had immediately lodged a report to the police within couple of hours. In my view, this is not a fit case for releasing the accused on bail. Application for bail is rejected.

4. However in the event if the appeal is not heard within reasonable time, liberty to the applicant to apply again.

V.M. KANADE, J